

### **REMARKS**

Claims 1-35 are pending in the present Application. Claims 11 and 27-30 have been canceled, claims 1, 4, 12-15, 20, 21, 25, and 26 have been amended, and claim 36 has been added, leaving Claims 1-10, 13-26, and 36 for consideration upon entry of the this Amendment. No new matter has been introduced by these amendments. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

#### Amendments to the Claims

Claims 1, 20, 21, 25, and 26 have been amended to specify that the concentrate comprises a poly(arylene ether) and that the second and third thermoplastics are selected from the group consisting of poly(alkenyl aromatic) homopolymer resins, rubber modified poly(alkenyl aromatic) homopolymer resins, polyamide, polyolefin and combinations of two or more of the foregoing resins. Support for this amendment can be found in paragraph [0005] and the examples.

Claims 4, and 12-14 have been amended to be in concordance with amended claim 1. Claim 15 has been amended to be in concordance with amended claim 1 and to address a typographical error.

#### Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 15 and 28-35 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 15 has been amended to comply with the need for antecedent basis. Claims 28-35 have been canceled.

#### Claim Rejections Under 35 U.S.C. § 102(b) and 103(a)

Claims 1-3, 5-8, 10-14, 16, 17, 20, 25, 27-31, and 33-35 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by, or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,262,476 to Laughner ('476) or U.S. Patent No. 5,270,386 to Laughner ('386).

'476 discloses blends of a poly(phenylene ether) concentrate, a polycarbonate and a polyester (Abstract). '476 does not disclose blending a poly(phenylene ether) concentrate with a component selected from the group consisting of a third thermoplastic, fire retardant additive, reinforcing agent, electrically conductive filler, non-electrically conductive filler, and combinations of two or more of the foregoing wherein the third thermoplastic is selected from the group consisting of poly(alkenyl aromatic) homopolymer resin, rubber modified poly(alkenyl aromatic) homopolymer resin, polyamide, polyolefin and combinations of two or more of the foregoing.

To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Varient Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987). Similarly, for an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Establishing a prima facie case of obviousness requires that all elements of the invention be disclosed in the prior art. *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Applicants respectfully request withdrawal of the rejection because '476 does not disclose all the elements of the amended claim.

'386 teaches a blend of a vinyl aromatic copolymer and a poly(phenylene ether) concentrate. The concentrate contains poly(phenylene ether) and another polymer such as polystyrene or a vinyl aromatic polymer (Abstract and col. 10, lines 52-56). '386 does not teach melt blending a poly(phenylene ether) concentrate with a poly(alkenyl aromatic) homopolymer resin, rubber modified poly(alkenyl aromatic) homopolymer resin as is instantly claimed. As a result the pending claims can neither be anticipated nor obvious.

Claims 27-29, 31 and 33-35 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by, or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,353,050 to Bastiaens et al. (Bastiaens). Claims 27-29, 31 and 33-35 have been canceled.

Claims 27-29, 31 and 33-35 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by, or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,350,804 to Adedeji et al. (Adedeji). Claims 27-29, 31 and 33-35 have been canceled.

### New Claim

Claim 36 has been added to further claim the invention. In particular, Claim 36 is directed to a specific combination of resins and antecedent basis for the claim can be found in the claims and specification as originally filed.

### Double Patenting

Claims 1-7, 10-17, 19 and 25 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-46 of U.S. Patent No. 6,908,964. Claims 1, 3-7, 10-17, 19, 25, 27-30 and 33-35 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-46 of U.S. Patent No. 6,627,701. As the claims are not final, it is not possible to make any determination as to double patenting or obviousness at this time. Hence, withdrawal of this rejection at least until the present claims are in their final form and a determination as to obviousness-type double patenting can be made. MPEP § 804.01.I(B)(1).

Claims 27-31 and 33-35 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,352,654. Claims 27-31 and 33-35 have been canceled.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance are requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 50-1131.

Respectfully submitted,

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